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INFO RUEHBS/USEU BRUSSELS PRIORITY

UNCLAS STATE 151167

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E.O. 12958: N/A

TAGS: [EAIR](#) [SENV](#) [ETRD](#)

SUBJECT: PORTUGAL - RESPONDING TO GOP'S FAX ON OPORTO NIGHT FLIGHT
RESTRICTIONS

REF: (A) SEPT 12 GOP FAX (B) STATE 118288 (C) GOP MAY 8 LETTER TO AMB

HOFFMAN (D)MORENSKI-BYERLY EMAIL OF MAY 23

11. Summary and action request. Department was disappointed by the response received from the Government of Portugal (GoP) to our August demarche (ref B). The passing reference to the balanced approach to noise management, as if a mere verbal reference takes care of the obligations of the GoP to take certain steps, raises serious questions about the government's international commitment to address noise problems in a transparent and consultative manner, as does the lack of any reference to the EC Directive on noise management at European airports. The limited exemptions offered (to allow for extenuating circumstances) offer little real flexibility to our carriers that rely on night-time operations in Lisbon. Moreover, if our understanding is correct, restrictions on the use of reverse thrust after landing (para 3 of the fax) raise serious safety concerns. Although EEB/TRA DAS John Byerly raised the issue of night flight restrictions with Luis Fonseca de Almeida on the margins of the International Civil Aviation Organization Assembly, he did not have an opportunity to discuss the GOP's reply in detail. Department requests that post convey the points in paragraph two to the Government of Portugal, and advise them of our intent to raise this during the next preliminary meeting of the US-EU Joint Committee the week of November 5. End Summary and Action Request.

22. Begin Points

-- We have reviewed the response to our request for more information regarding the Decree-Law 9/2007 of January 2007 on noise regulation at Oporto Airport.

-- We are concerned that the decision to forbid landings or take-offs between the hours of midnight and 6:00 a.m. appears to have been taken without a structured and transparent opportunity for consultation with all stakeholders, or any meaningful consideration of the costs and benefits of alternative measures available to address noise at Oporto.

-- The response to our request offered no insight into any cost/benefit analysis that Portugal may have conducted. It provided no clear explanation for the data underpinning the nature of the noise problem identified or any alternative measures that were evaluated before the decision was taken to implement operational restrictions and, it would appear to dismiss alternative measures. There is only an uninformative and unsatisfactory reference to "governmental deliberation."

-- As noted in our August communications, an approach that lacks cost/benefit analysis and transparency would be inconsistent with the internationally agreed commitment to apply the "balanced approach" to noise management at the airport level, a commitment underscored in conjunction with the signing of the US-EU Air Transport Agreement. It also would be inconsistent with the requirements outlined in the EC Directive 2002/30/EC.

-- Operating restrictions at Oporto that limit U.S. carriers' market access raise fundamental issues under the existing bilateral Open Skies Agreement, and under the U.S.-EU Air Transport Agreement that will be provisionally applied as of March 30, 2008.

-- Moreover, in our reading of the implementation measures, it appears that there is a complete ban on the use of reverse thrust after landing. Such an outright ban raises significant safety concerns.

-- While we appreciate that your government has offered exceptions, those exceptions only apply in extenuating circumstances and offer no real flexibility for carriers that rely on the ability to take off and land at night.

-- While we affirm that the ultimate decision clearly rests with your government, reaching it in a manner which appears to us to ignore international agreement and EC requirements is counterproductive to the orderly operation of international aviation.

-- We have also raised our concerns with the European Commission, and have placed this issue on the agenda of the next preliminary meeting of the Joint Committee scheduled for November 5-6.

RICE